

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONICA BROWN, Individually and as
Heir of Mark A. Jaconski, Deceased,

Plaintiff,

v.

TANYA DRUMMOND, PATRICIA
"PATSY" MARTIN, JACOB ALLEN,
SGT. CALEB NOLAND, SHERIFF JOHN
COTTLE, and LINCOLN COUNTY, MISSOURI,

Defendant.

Case No.: 4:17-CV-01679-SNLJ

**JUDGMENT AND ORDER UNDER SECTION 537.095 R.S.MO. (2016) APPROVING
THE SETTLEMENT OF THE CLAIMS FOR THE INJURIES TO AND DEATH OF
MARK A. JACONSKI, DECEASED BETWEEN MONICA BROWN, INDIVIDUALLY,
AS MOTHER OF MARK A. JACONSKI, DECEASED, AND AS HEIR OF MARK A.
JACONSKI, DECEASED AND LINCOLN COUNTY, MISSOURI AND THE
COLLECTION AND DISTRIBUTION OF THE SETTLEMENT PROCEEDS TO THE
HEIR AND BENEFICIARY OF MARK A. JACONSKI, DECEASED**

On the 7th day of November, 2019, this cause comes on for hearing of the Joint Application For Approval Of A Settlement Of The Claims For The Injuries To And Death Of Mark A. Jaconski, Deceased And To Distribute The Settlement Proceeds To The Heir And Beneficiary Of Mark A. Jaconski, Deceased ("Joint Application") between Plaintiff Monica Brown, individually, and as heir of Mark A. Jaconski, Deceased ("Plaintiff") and Defendant Lincoln County, Missouri ("Defendant")(Plaintiff and Defendant collectively referred to as the "Parties").

Plaintiff Monica Brown, individually and as heir of Mark A. Jaconski, Deceased ("Plaintiff") appears in person and by her attorney Matthew A. Radefeld. Defendant Lincoln County, Missouri ("Defendant") appears through counsel D. Keith Henson. After reviewing the

Joint Application, hearing evidence from the Plaintiff and statements of counsel, the Court makes the following findings:

1. Plaintiff has asserted claims for damages against the Defendant arising out of the death of her son Mark A. Jaconski on January 22, 2016 as a result of his attempted suicide at the Lincoln County Jail. Plaintiff contends that the death of Mark A. Jaconski was caused by the acts, omissions, and negligence of employees of the Defendant arising out of the incarceration of Mark A. Jaconski at the Lincoln County Jail on June 18 and June 19, 2015 and the attempted suicide of Mark A. Jaconski on June 19, 2015 and include claims for injuries to Mark A. Jaconski on June 19, 2015 and his subsequent death from his injuries on January 22, 2016 pursuant to the Missouri Wrongful Death Act, R.S.Mo. §537.080 et seq. (2016), as is more specifically alleged in the First Complaint filed herein and incorporated herein by reference. Defendant has generally and specifically denied the claims of the Plaintiff in the First Complaint in its Answer filed herein which is incorporated herein by reference.

2. Decedent Mark A. Jaconski is survived by his mother Monica Brown, who is the individual entitled to bring an action for the injuries to and death of Mark A. Jaconski under R.S.Mo. § 537.080.1(1) (2016). No other person known to the Parties hereto is entitled to bring an action for the injuries to and death of Mark A. Jaconski under R.S.Mo. § 537.080.1(1) (2016) other than the individual identified in this paragraph.

3. Pursuant to the provisions of R.S.Mo. § 537.095 (2016), all parties having any cause of action under R.S.Mo. § 537.080.1(1) (2016) for the injuries to and death of Mark A. Jaconski, deceased will be notified of this cause of action, the filing of the Joint Application for Approval of a Settlement for the Injuries to and Death of Mark A. Jaconski, deceased and to Distribute the Settlement Proceeds to the Heir and Beneficiary of Mark A. Jaconski, deceased, and

the date of the hearing on the Joint Application for Approval of a Settlement for the Injuries to and Death of Mark A. Jaconski, deceased and to Distribute the Settlement Proceeds to the Heir and Beneficiary of Mark A. Jaconski, deceased, by being a Party to this Action.

4. Pursuant to the provisions of R.S.Mo. § 537.095 (2016), Plaintiff may compromise and settle the claim for damages for the injuries to and death of Mark A. Jaconski, as described in paragraph 1, without the joinder of any other person.

5. This Court has venue and jurisdiction over the causes of action asserted by the Plaintiff against the Defendant because the alleged acts causing the injuries to and death of Mark A. Jaconski, deceased occurred in Lincoln County, Missouri located in the Eastern District of Missouri, Eastern Division.

6. Although claims have been made against the Defendant, the Defendant has denied and continues to deny any negligence, fault, act or omission with respect to the incidents or occurrences allegedly causing the injuries to and death of Mark A. Jaconski as are alleged in the First Complaint filed herein and incorporated herein by reference.

7. Plaintiff has continued to pursue the causes of action against the Defendant and believes that the amount of liability and damages attributable to the Defendant has been and is contested both to liability and to the extent of damages and Plaintiff acknowledges that Defendant has denied any liability for the claims asserted for the injuries to and death of Mark A. Jaconski, deceased.

8. Taking into consideration the expense, delay and uncertainty of litigation, Plaintiff and Defendant have agreed to a settlement and compromise of the aforementioned claims subject to the Court's approval. The Parties have agreed to settle all of the claims against the Defendant, including all claims for damages for the injuries to and death of Mark A. Jaconski, for Mark A.

Jaconski's conscious pain and suffering before his death, for pecuniary losses, funeral expenses, constitutional violations, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support suffered by reason of Mark A. Jaconski's death and all other claims for damages against the Defendant arising out of the injuries to Mark A. Jaconski on June 19, 2015 and the subsequent death of Mark A. Jaconski on January 22, 2016, including all claims for damages for wrongful death and other damages to Mark A. Jaconski provided in R.S.Mo. § 537.090 (2016), all claims for damages to Mark A. Jaconski's surviving heirs and beneficiaries under R.S.Mo. § 537.080.1 by reason of the injuries to and death of Mark A. Jaconski, and all other claims under state, federal, and common law for damages against the Defendant arising out of the injuries to Mark A. Jaconski on June 19, 2015 and the death of Mark A. Jaconski on January 22, 2016, the consideration for which is the payment of \$300,000.00 by Defendant Lincoln County, Missouri ("Settlement Proceeds").

9. The Plaintiff, with advice of counsel, having considered the circumstances surrounding the injuries to and death of Mark A. Jaconski, states and represents to the Court that she believes that this proposed offer of settlement and compromise is fair and reasonable, and is in the best interests of the heirs and beneficiaries of Mark A. Jaconski, deceased and should be approved by the Court.

10. Plaintiff and Defendant seek the Court's approval of this settlement and a judgment awarding the Settlement Proceeds for the exclusive use and benefit of the Plaintiff to be distributed to her, her attorneys, and Missouri Department of Social Services, MO HealthNet Division in amounts as requested herein.

11. Plaintiff contracted with Frank, Juengel & Radefeld, Attorneys at Law, P.C. to represent Plaintiff's interests in the claims and causes of action against the Defendant. Pursuant

to the Agreement, Frank, Juengel & Radefeld, Attorneys at Law, P.C. is entitled an attorney fee in the amount of \$100,000.00 and is entitled to payment for costs and expenses in the amount of \$2,409.15 if the proposed settlement is approved and carried out. Frank, Juengel & Radefeld, P.C., Attorneys at Law, P.C. has also agreed if the settlement is approved, and the payment of attorney fees, expenses, and costs is approved, that a receipt will be filed by the law firm confirming the payment of attorney fees, expenses, and costs as approved by the Court.

12. Plaintiff has agreed to satisfy and pay any and all valid liens which have arisen out of the injuries to and death of Mark A. Jaconski or as a result of any medical care and treatment, funeral expenses, claims of other heirs and beneficiaries, subrogation interests, or any other expenses incurred as a result of the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski on January 22, 2016, including, but limited to, the lien of the Missouri Department of Social Services, MO HealthNet Division for payment of medical bills and expenses for Mark A. Jaconski in the amount of Eighty Five Thousand Eight Hundred Fifteen and 32/100 Dollars (\$85,815.32) from the Settlement Proceeds as approved by the Court. Plaintiff filed an Action against the Missouri Department of Social Services, MO HealthNet Division in the Circuit Court of St. Charles County, Cause No. 1911-CC00395 to reduce or eliminate the lien asserted by the Missouri Department of Social Services, Mo HealthNet Division for payment of medical and other expenses for Mark A. Jaconski prior to his death with a Judgment and Order being entered by the Court on August 27, 2019 reducing the lien to Twenty Thousand and 00/100 Dollars (\$20,000.00) and ordering the Plaintiff to pay \$20,000.00 in satisfaction of the lien of the Missouri Department of Social Services, MO HealthNet Division. A copy of the Judgment and Order is attached as Exhibit 1 and is incorporated herein by reference. Plaintiff has agreed to pay the lien of the Missouri Department of Social Services, MO HealthNet Division in the amount of Twenty

Thousand and 00/100 Dollars (\$20,000.00) from the Settlement Proceeds approved by the Court and states that no other liens have been asserted against her arising out of the injuries to and death of Mark A. Jaconski, deceased.

13. The Plaintiff requests that the Court approve the payment of attorney fees in the amount of \$100,000.00 and costs and expenses in the amount of \$2,409.15 to Frank, Juengel & Radefeld, Attorneys at Law, P.C. and Plaintiff requests the Court to approve that the net amount of the Settlement Proceeds in the amount of \$197,590.85 be paid and distributed from the Settlement Proceeds to Plaintiff and Missouri Department of Social Services, MO HealthNet Division in payment of its lien as follows:

(a) The sum of \$177,590.85 to Monica Brown, individually and as Heir of Mark A. Jaconski, deceased; and

(b) The sum of Twenty Thousand and 00/100 Dollars (\$20,000.00) to Monica Brown and Missouri Department of Social Services, MO HealthNet Division.

14. Plaintiff and Defendant agree that the settlement proceedings for which approval of this Court is requested are not to be construed as an admission of liability on the part of anyone, with Defendant denying that it was individually or collectively negligent or at fault with respect to the incidents or occurrences described in the First Complaint and denying any liability for the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski, deceased, on January 22, 2016.

15. Subject to the approval of the settlement by the Court, the Court approving the amount of attorney fees, costs and expenses to be paid to Frank, Juengel & Radefeld, Attorneys at Law, P.C., and approving the amount of the distribution from the Net Settlement Proceeds to Plaintiff and Missouri Department of Social Services, MO HealthNet Division, Plaintiff has agreed

to execute a General and Full Release of All Claims for the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski, deceased on January 22, 2016 releasing all claims against the Defendant and its employees, agents, servants, representatives and officials arising out of the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski, deceased on January 22, 2016.

16. The Plaintiff and Defendant agree that this settlement, if approved by the Court, is a good faith settlement with the Defendant, and Plaintiff and Defendant request the Court to find that the release executed by the Plaintiff is given in good faith to the Defendant as that term is used in R.S.Mo. § 537.060 (2016).

17. The Defendant also requests the Court to order the Plaintiff to execute and file a receipt herein tendered by the Defendant confirming the payment of the Settlement Proceeds to the Plaintiff, individually and as heir and beneficiary of Mark A. Jaconski, deceased, as approved and ordered by the Court herein and to execute and file a Release and Satisfaction of Judgment when the payment is made to the Plaintiff to satisfy the judgment approving the settlement and distribution of the Settlement Proceeds.

18. The Defendant also requests the Court to order Frank, Juengel & Radefeld, Attorneys at Law, P.C. to file a receipt for the payment of attorney fees, costs, and expenses approved by the Court upon the payment of the attorney fees, costs, and expenses to the Frank, Juengel & Radefeld, Attorneys at Law, P.C.

19. The Plaintiff requests the Court to grant her leave to waive a jury herein and to submit all issues in the proposed settlement to this Court for a determination and approval of the settlement and to approve the distribution of the Settlement Proceeds to the Plaintiff, individually and as an heir and beneficiary of Mark A. Jaconski, deceased as requested herein, approve the

amount of attorney fees, costs, and expenses to be paid to the Frank, Juengel & Radefeld, Attorneys at Law, P.C., and approve the payment of the lien to Missouri Department of Social Services, MO HealthNet Division as requested herein.

Based upon the foregoing findings, evidence from the Plaintiff at the hearing, and statements of counsel at the hearing to approve the Joint Application, it is hereby:

ORDERED, ADJUDGED, AND DECREED as follows:

(a) That this Court has jurisdiction and venue over this cause of action and the settlement of the claims for the injuries to and death of Mark A. Jaconski, deceased, and that Plaintiff is granted leave to waive a jury herein and to submit all issues of the proposed settlement to this Court for a determination;

(b) That pursuant to the provisions R.S.Mo. § 537.095 (2016), all heirs and beneficiaries having a cause of action under R.S.Mo. § 537.080.1(1) (2016) for the injuries to and death of Mark A. Jaconski, deceased have been duly notified of the claims asserted for the injuries to and death of Mark A. Jaconski, deceased, the filing of the Joint Application for Approval of a Settlement of the Claims for the Injuries to and Death of Mark A. Jaconski, deceased and to Distribute the Settlement Proceeds to the Heir and Beneficiary of Mark A. Jaconski, deceased, and the date and time of the hearing for the Court to approve the settlement as requested herein and to approve the distribution of the Settlement Proceeds to the heir and beneficiary of Mark A. Jaconski, deceased, and are before the Court as a Party to this action;

(c) That pursuant to the provisions of R.S.Mo. § 537.095 (2016), Plaintiff may compromise the claims for damages for injuries to and death of Mark A. Jaconski, deceased, as an heir and beneficiary of Mark A. Jaconski, deceased, under R.S.Mo. § 537.095.1 (2016) without the joinder of any other person;

(d) That the aforementioned settlement for the injuries to and death of Mark A. Jaconski, deceased is proper and is in the best interest of the Plaintiff and the heirs and beneficiaries of Mark A. Jaconski, deceased, and is approved.

(e) That the settlement for the injuries to and death of Mark A. Jaconski, deceased for the Settlement Proceeds in the amount of \$300,000.00 to be paid by Defendant is approved, with the distribution of the Settlement Proceeds to the Plaintiff after the payment of attorney fees, expenses, and costs based upon the request of Plaintiff in Paragraph 13 and based upon the evidence adduced at the hearing to approve the settlement and the distribution of the Settlement Proceeds be as follows:

(i) The sum of One Hundred Seventy-Seven Thousand and Five Hundred Ninety Dollars and Eighty-Five Cents (\$177,590.85) to Monica Brown, individually, and as an heir of Mark A. Jaconski, deceased; and

(ii) The sum of Twenty Thousand and 00/100 Dollars (\$20,000.00) to Monica Brown and Missouri Department of Social Services, MO HealthNet Division.

(f) The Plaintiff entered into an Agreement with Frank, Juengel & Radefeld, Attorneys at Law, P.C. to represent her interests in the cause of action asserted against the Defendant for injuries to and death of Mark A. Jaconski, deceased, and pursuant to the Agreement and the request of the Plaintiff, Frank, Juengel & Radefeld, Attorneys at Law, P.C. is entitled to an attorney fees in the amount of \$100,000.00 and the payment of expenses and costs in the amount of \$2,409.15 from the settlement for the injuries to and death of Mark A. Jaconski, deceased, which is approved by the Court.

(g) Plaintiff has agreed to satisfy and pay any and all valid liens which have arisen out of the injuries to and death of Mark A. Jaconski or as a result of any medical care and treatment,

funeral expenses, claims of other heirs and beneficiaries, subrogation interests, or any other expenses incurred as a result of the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski on January 22, 2016, including, but limited to, the lien of Missouri Department of Social Services, MO HealthNet Division for payments of medical bills and expenses for Mark A. Jaconski in the amount of Twenty Thousand and 00/100 Dollars (\$20,000.00) from the Settlement Proceeds, which is approved by the Court.

(h) That Plaintiff is ordered, empowered, authorized and directed to execute a General and Full Release of All Claims for the injuries to and death of Mark A. Jaconski, deceased, releasing all claims against the Defendant and its employees, agents, servants, representatives and officials arising out of the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski, deceased on January 22, 2016 upon the payment of the Settlement Proceeds approved herein;

(i) That the settlement is a good faith settlement with the Defendant and the General and Full Release of All Claims for the injuries to and death of Mark A. Jaconski, deceased, to be executed by the Plaintiff is given to the Defendant in good faith pursuant to R.S.Mo. § 537.060 (2016);

(j) That the payment of the Settlement Proceeds is not to be construed as an admission of liability on the part of the Defendant with Defendant denying any negligence or fault with respect to the incidents or occurrences causing the injuries to Mark A. Jaconski on June 19, 2015 and death of Mark A. Jaconski, deceased on January 22, 2016;

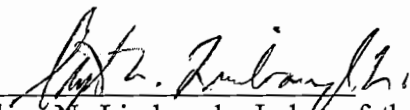
(k) That Plaintiff shall collect the Settlement Proceeds as ordered and approved by the Court and will execute and file a receipt for the payment to her from the Settlement Proceeds

approved herein and Plaintiff will execute and file a Release and Satisfaction of Judgment for the payment of the Settlement Proceeds to her pursuant to the judgment;

(l) That Frank, Juengel & Radefeld, Attorneys at Law, P.C. shall file a receipt for the payment of attorney fees, costs, and expenses approved herein and ordered by the Court upon the payment the attorney fees, costs, and expenses to Frank, Juengel & Radefeld, Attorneys at Law, P.C.; and

(m) That Plaintiff shall bear and be responsible to pay the costs and attorney fees incurred by her in this case and Defendant shall bear and be responsible to pay the costs and attorney fees incurred by Defendant in this case.

Nov. 7, 2019
Dated


Stephen N. Limbaugh, Judge of the United States
District for the Eastern District of Missouri